

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor Jorge Gomez, Commissioner

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

UnitedHealthCare of Wisconsin, Inc. 10701 West Research Drive Wauwatosa, WI 53226

dated March 24 - June 24, 2003, and served upon the company on March 11, 2004, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 15th day of April, 2004.

Jorge Gomez Commissioner of Insurance

STATE OF WISCONSIN OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

UNITEDHEALTHCARE OF WISCONSIN INC.

MARCH 24 – JUNE 24, 2003

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June 24, 2003

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Honorable Jorge Gomez Commissioner of Insurance Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted March 24, 2003, to June 30, 2003 of:

> UNITEDHEALTHCARE OF WISCONSIN INC. Wauwatosa, Wisconsin

and the following report of the examination is respectfully submitted.

INTRODUCTION

UnitedHealthcare of Wisconsin, Inc. (UHCW), can be described as a for-profit, network model health maintenance organization (HMO) insurer. An HMO insurer is defined by s. 609.01 (2), Wis. Stat., as "a health care plan offered by an organization established under ch. 185, 611, 613, or 614, Wis. Stat., or issued a certificate of authority under ch. 618, Wis. Stat., that makes available to its enrolled participants, in consideration for predetermined fixed payments, comprehensive health care services performed by providers selected by the organization." Under the network model, the HMO insurer provides care through contracts with clinics and otherwise independent physicians operating out of their separate offices.

UHCW was incorporated on May 8, 1986, and commenced business on June 6, 1986, as the Heritage Health Plan of Wisconsin, Inc. Simultaneously, the company acquired all of the assets, and assumed all of the liabilities of the PrimeCare Health Plan of Wisconsin, pursuant to an asset purchase agreement dated May 8, 1986. By shareholder

consent dated May 11, 1987, the name of the company was changed to PrimeCare Health Plan, Inc. On March 1, 1990, UnitedHealth Care Corporation (United), a Minnesota managed care holding company, acquired Heritage Holding Company, Inc. (HHC), through purchase of all outstanding shares of common stock on March 1, 1990. HHC, which owned 100% of the company's outstanding common stock at the time of the purchase, was subsequently dissolved, and the ownership interest in the company was transferred to UHC Management Company (UMC). UMC is a wholly owned subsidiary of United. UMC subsequently changed its name to United HealthCare Services (UHS). On August 1, 1991, the company merged with an affiliate, Samaritan Health Plan, which was also a wholly owned subsidiary of UMC. Samaritan, which was the surviving corporation, changed its name to PrimeCare Health Plan, Inc., pursuant to the merger. On July 17, 1996, the company merged with an affiliate, MetraHealth Care Plan of Wisconsin, Inc. PrimeCare Health Plan, Inc., was the surviving corporation. On June 30, 2000, the company became a wholly owned subsidiary of UnitedHealthcare, Inc. (UHC), pursuant to a transfer of 100% of the company's outstanding shares to UHC by UHS. UHC is a Delaware corporation and wholly owned subsidiary of UHS designed to be the holding company for all of the companies that are part of the UnitedHealth Group. UnitedHealth Group Incorporated (United) is the ultimate controlling entity in the insurance holding company system.

On October 9, 1999, the company's board of directors amended the articles of incorporation to change the corporate name to its current name, UnitedHealthcare of Wisconsin, Inc. (UHCW). The name change was effective December 31, 1999.

At the time of the examination, UHCW's service area included the counties of: Dodge, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, and Waukesha. UHCW has no employees. Necessary staff is provided through a management agreement with UnitedHealthCare Services, Inc. (UHS). Under the agreement, effective January 1, 2001, UHS agreed to negotiate employer, provider, subscriber, and other contracts;

advise the board; maintain accounting and financial records, recruit marketing, utilization review, and claims processing personnel; and provide or contract for claims processing and management information services.

During 2001 UHG moved UHCW's various operational functions to locations outside Wisconsin. Member and provider service functions were moved to call centers located in St. Louis Missouri, claims intake and administration was moved to San Antonio, Texas and Minneapolis, Minnesota, billing and enrollment functions were moved to Duluth, Minnesota, appeals and grievance functions were moved to Dayton, Ohio. Operational functions related to sales, marketing and provider contracting remained at the company's office in Wauwatosa, Wisconsin.

The majority of the premium written by UHCW in 2001 and 2002 was in group accident and health. The company ranked as the largest writers of group accident and health in both 2001 and 2002.

The following tables summarize the premiums earned in Wisconsin for 2001 and 2002 broken down by line of business.

Wisconsin Premium Summary

2001				
Direct				
Line of Business	Premiums Earned	% of Total Premium		
Group Comprehensive	\$467,304,199	70%		
Medicare Supplement	98,672,362	13%		
Title XIX Medicaid	101,070,403	17%		
Total	\$667,046,964	100%		

2002				
Line of Business	Direct Premiums Earned	% of Total Premium		
Group Comprehensive	\$559,337,125	78%		
Medicare Supplement	31,390,964	4%		
Title XIX Medicaid	128,718,181	18%		
Total	\$719,446,270	100%		

Complaints

The Office of the Commissioner of Insurance (OCI) received 419 complaints against the HMO between January 1, 2001 through December 3, 2002. A complaint is defined as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The company ranked 23rd on the 2002 complaint summary for group accident and health insurance, with a complaint ratio of .06 compared to a Wisconsin average of .04 complaints per \$1,000,000 written premium. The company was not ranked on the complaint summary for 2001, and had a complaint ratio of .02 compared to a Wisconsin average of .05 complaints per \$100,000 written premium. The majority of the company's complaints for 2001 and 2002 involved claim administration.

OCI complaint data indicates a significant increase in the number of complaints filed during 2002 and continuing into 2003. This increase in complaints corresponds with the transfer of UHCW's claim and complaint functions to UHG business units. OCI complaint files document a parallel decrease in timely response to OCI complaints, and a decrease in the quality of the company's response.

The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

Complaints Received

2002	Reason Type				
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Health	-	-	-	-	-
Individual A&H	-	-	-	-	-
Group A&H	-	-	-	-	-
Credit A&H	-	-	-	-	-
HMO	2	3	173	10	58
PPO	-	-	-	-	-
LSHO	-	-	-	-	-
All Others	-	-	23	3	13
Total	2	3	196	13	71

2001	Reason Type				
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Health	-	-	-	-	-
Individual A&H	-	-	-	-	-
Group A&H	-	-	-	-	-
Credit A&H	-	-	-	-	-
HMO	-	-	84	4	17
PPO	-	-	-	-	-
LSHO	-	-	-	-	-
All Others	-	-	20	1	8
Total	-	-	104	5	25

Grievances

UHCW submitted annual grievance summary reports to OCI for 2001 and 2002, as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined "as any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed writing to the insurer by, or on behalf of, an insured."

UHCW's grievance report for 2001 indicated that the company received 534 grievances, 172 or 32% were reversed. The majority of the grievances filed with the company in 2001 were related to noncovered benefits. The company's grievance report for 2002

indicated that the company received 1239 grievances. The majority of the grievances filed with the company in 2002 were related to noncovered benefits.

The following tables summarize the grievances for the company for the 2002 and 2001:

2002				
Category	No.			
Access to Care	0			
Continuity of Care	0			
Drug & Drug Formulary	65			
Emergency Services	36			
Experimental Treatment	19			
Prior Authorization	383			
Noncovered Benefit	404			
Not Medically Necessary	28			
Other	104			
Plan Administration	200			
Plan Providers	0			
Request for Referral	0			
Total	1,239			

2001				
Category	No.	No. Reversed	% Reversed	
Access to Care	1	0	0	
Continuity of Care	0	0	0	
Drug & Drug Formulary	34	20	59	
Emergency Services	6	4	66	
Experimental Treatment	6	0	0	
Prior Authorization	13	6	46	
Noncovered Benefit	251	12	5	
Not Medically Necessary	0	0	0	
Other	207	123	59	
Plan Administration	15	6	40	
Plan Providers	0	0	0	
Request for Referral	1	1	100	
Total	534	172	32%	

II. PURPOSE AND SCOPE

A targeted desk audit examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2001 through December 31,2002. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The scope of the examination was limited to a review of the company's operations in the areas of claims, policyholder services complaints, provider agreements, grievances, small employer health insurance, privacy, electronic commerce and managed care. The examination included a review of compliance with the market conduct examination recommendations in the December 1996 financial examination report and the managed care desk audit dated August 1999.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. PRIOR EXAMINATION RECOMMENDATIONS

The previous market conduct examination of the company, as adopted May 27, 1998, contained eight recommendations. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation:

Small Employer Health Insurance

1. It is recommended that PrimeCare revise the letter sent with proposals of coverage for the standard plan to clarify that the basic health benefit plan is available to all small employer groups, not just those groups medically declined for coverage under the standard plan, pursuant to s. Ins 8.68 (3), Wis. Adm. Code.

Action: No longer applicable, statute repealed per 1997 Wisconsin Act 27.

2. It is recommended that PrimeCare revise the rating and renewability form used to satisfy the requirements of s. 635.11, Wis. Stat., and s. Ins 8.48, Wis. Adm. Code, to correctly reference a maximum variance from the midpoint rate of 30 % effective August 15, 1994, pursuant to s. Ins 8.52 (2), Wis. Adm. Code.

Action: Compliance.

3. It is recommended that PrimeCare establish procedures to ensure that a small employer is provided with, and signs at the point of sale, the disclosure form required by s. 635.11, Wis. Stat., and s. Ins 8.48 (1), Wis. Adm. Code, and retain copies of such form in the employer application file.

Action: Compliance

4. It is recommended that PrimeCare establish procedures to obtain appropriate documentation to verify that a complete list of employees has been obtained from the small employer as part of the application process, pursuant to the requirements of s. Ins 8.65 (1), Wis. Adm. Code.

Action: Compliance.

5. It is recommended that PrimeCare establish procedures to ensure that all small employer groups who are declined coverage for medical reasons are sent a declination letter and offered the basic health benefit plan, along with a price quote, general description of the plan, and information on how to apply pursuant to s. Ins 8.68 (6), Wis. Adm. Code.

Action: No longer applicable, statute repealed per 1997 Wisconsin Act 27.

It is recommended that PrimeCare establish procedures to ensure that a separate written notice is provided to the policyholder, upon issuance of the policy, which discloses to the policyholder, that the protections afforded by ch. 635, Wis. Stat., will cease to apply if the employer moves his business

outside the state or if the employer no longer meets the definition of small employer, as required by s. Ins 8.44 (2), Wis. Adm. Code.

Action: Non-Compliance.

Grievances and Complaints

7. It is recommended that PrimeCare revise grievance reporting procedures to include the total number of all grievances received pursuant to the

requirements of s. 609.15 (1) (c), Wis. Stat., and s. Ins 3.50 (10) (g) 3,

Wis. Adm. Code.

Action: Compliance.

Miscellaneous

It is recommended that PrimeCare revise its EOB form to comply with the

requirements of s. Ins 3.651 (4) (a) 8. b., c., and d, Wis. Adm. Code.

Action: Compliance.

Additionally, OCI performed a desk audit of the HMO in 1999 that was limited to

managed care compliance issues and resulted in the following report recommendations as

adopted November 11, 1999:

Access

9. It is recommended that PrimeCare develop a plan for ensuring the needs of enrollees who are members of under served populations are met, to ensure

compliance with s. 609.22 (8), Wis. Stat.

Action: Compliance.

Continuity of Care:

10. It is recommended that PrimeCare modify its provider agreements to include a provision addressing reimbursement for services provided during continuity of

care, as required by s. 609.24 (1) (e), Wis. Stat.

Action: Non-Compliance.

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IV. CURRENT EXAMINATION FINDINGS

Claims

The examiners reviewed UHCW's response to OCI's claims interrogatory, and its claim procedure manuals, data storage systems, and internal audit reports. UHCW reported that Uniprise, a subsidiary of UHG, was responsible for claims administration and continuation of coverage issues. Ingenix, another subsidiary of UHG, is responsible for subrogation and fraud issues.

The examiners selected to review a random sample of 100 paid and 100 denied claims processed during the period of review including a sample of 50 claims specific to mental health and 50 claims specific to chiropractic services. The examiners encountered great difficulty in obtaining from UHCW claims data in the format requested and this extended the time needed to complete the examination. Although during the period of review, UHCW transitioned its claim system from Wisconsin to out of state locations thereby requiring a claim system conversion, it is the opinion of the examiners that this should not have impacted the company's ability to provide OCI with the claim data in a timely manner and in the format requested.

The examiners found that UHCW did not have a written procedure specific to the handling of claim and coverage issues related to Wisconsin chiropractic services. The examiners also found that the information provided by UHCW to the examiners was inadequate to verify the company's compliance with the requirements of Wisconsin's chiropractic mandate. The company's form letters were generic letters that were apparently used to deny chiropractic claims involving "pre-service denials" and "1st appeal for pre-service" situations involving "cosmetic" treatment, "unproven" service or treatment and "contract language." The examiners found that UHCW's claim denial letters did not contain all of the required information for Wisconsin chiropractic claims. Section 632.875 (2), Wis. Stat., proscribes the actions an insurer

must take if on the basis of an independent evaluation, an insurer restricts or terminates a patient's coverage for the treatment of a condition or complaint by a chiropractor.

- 1. **Recommendation:** It is recommended that the company develop a written procedure specific to Wisconsin chiropractic claims for handling of claim and coverage issues related to limiting or terminating chiropractic services as required by s. 632.875, Wis. Stat.
- 2. **Recommendation:** It is recommended that the company modify the form letters it sends to treating chiropractors and patients regarding Wisconsin chiropractic claims to contain all of the information required by s. 632.875 (2) (a) (b) (c) (d) (e) (f) (g) and (h), Wis. Stat.

The examiners found that UHCW's explanation of benefits (EOB) form did not include a line item for claim adjustment reason (ANSI) codes. The company reported that it did use ANSI codes on claims; however, it discovered a claim system problem that resulted in the codes not being printed on generated EOBs. Section Ins 3.651 (4) (a) 5 f, Wis. Adm. Code, provides that the explanation of benefits form for insureds shall include, at a minimum, each claim adjustment reason code, unless the claims is for a dental procedure. Section Ins 3.651 (2), Wis. Adm. Code, defines claim adjustment reason (ANSI) codes as the claim disposition codes of the American National Standards Institute (ANSI) accredited standards committee X12(ASC X12).

3. **Recommendation:** It is recommended that the company correct the identified system problem so that ANSI codes are printed on generated EOB forms for Wisconsin certificateholders as required by s. Ins 3.651 (4) (a) 5. f, Wis. Adm. Code.

The examiners found that the manner in which UHCW responded to requests from insureds for information related to the specific methodology used by the company, in adjudicating claims indicated that UHCW did not have adequate procedures in place to satisfactorily provide this information. The company reported that enrollees received usual and customary information on EOB statements and that enrollees who dispute a claim could resubmit the claim for review and/or call the customer service number on member ID cards. Section Ins 3.60 (6), Wis. Adm. Code, requires that each insurer shall, upon request, provide

the insured with a description of the insurer's specific methodology including, but not limited to, the source of the data used, and statistical data.

4. Recommendation: It is recommended that the company develop a written procedure and corresponding letters to ensure that requests from Wisconsin certificateholders for information related to the specific methodology used by the company in adjudicating claims are answered as required by s. Ins 3.60 (6), Wis. Adm. Code.

Parallel to this examination, OCI was investigating claim issues related to UHCW's coverage of mental health services. The examiners found that effective July 1, 2002, the company implemented a separate plan coinsurance requirement of 50% for in-network mental health services. This does not comply with the coverage provisions for mental health service benefits under s. 632.89, Wis. Stat., which provides that a group insurance policy issued by an insurer shall provide coverage of nervous and mental disorders and alcoholism and other drug abuse problems if the policy provides coverage of inpatient hospital treatment or outpatient treatment or both. The statute also provides that coverage may not be subject to exclusions or limitations, including deductibles and copayments, unless they are generally applicable to other conditions covered under the policy. The examiners referred this matter to OCI legal staff for further analysis, and it will be handled as separate from the examination report.

Policyholder Service & Complaints

The examiners reviewed UHCW's response to OCI's policyholder service and complaints interrogatory, its written policies and procedures for handling complaints, internal audit reports and record keeping system. UHCW reported that UNIPRISE was responsible for handling policyholder services and complaints received by the company. UHCW reported that responsibility for responding to consumer complaints received by OCI against the company were referred to National Appeals Service Center (NASC), a Uniprise entity located in Dayton, Ohio. The examiners requested for review a random sample of 50 complaints UHCW received from Wisconsin insureds, or their representatives. The company was unable to provide the requested sample because it did not maintain a record of complaints by individual states. UHCW reported that complaint information was maintained under the member's identification number and complaint information specific to Wisconsin insureds could not be retrieved. Section Ins 18.06 (1), Wis. Adm. Code, provides that "each record of each complaint and grievance submitted to the insurer shall be kept and retained for a period of at least 3 years. These records shall be maintained at the insurer's home or principal office and shall be available for review during examinations by or on request of the commissioner or office."

5. **Recommendation:** It is recommended that the company revise the manner in which it maintains a record of complaints so that it can retrieve complaint information related to Wisconsin insureds for review by OCI in order to comply with s. Ins 18.06 (1), Wis. Adm. Code.

As part of this examination, the examiners conducted a complaint analysis of all complaints received by OCI during 2002 involving UHCW. The examiners found that OCI experienced numerous problems regarding the quality and timeliness of UHCW's response to OCI complaints. OCI complaint records indicate that UHCW's OCI complaints increased from 132 complaints during 2001 to 285 during 2002. OCI records indicate that it had written and verbal communication, including conference calls with the company regarding the quality and timeliness of UHCW's response to complaints. As a result of these communications, UHCW

made changes to its process for responding to OCI complaints, including redirecting OCI complaints to different UHG business unit locations and reassigning primary contacts. Some of the changes were not successful in addressing OCI concerns.

OCI requires that companies respond to OCI within 20 business days of their receipt of an OCI complaint, and that companies contact the complainant within 10 business days. The examiners found that OCI complaint files involving UHCW indicate OCI was required to recontact UHCW several times for adequate response regarding UHCW's failure to timely respond, failure to address how its handling of claims complied with Wisconsin insurance law, and failure to address its provider concerns. UHCW reported that the policy and procedure implemented by NASC provided that all OCI complaints must be responded to within 10 calendar days of receipt and a copy of the response sent to the complainant. The examiners found that UHCW's reported procedures were not reflected in the company's written complaint handling procedures nor was it evident that UHCW followed its existing procedures in responding to OCI complaints received against UHCW during 2002.

6. **Recommendation:** It is recommended that the company revise its complaint procedures involving the handling of OCI complaints to reflect its stated practice of contacting the complainant within 10 days of receiving the complaint per OCI referral instructions in order to comply with s. 601.42, Wis. Stat.

Grievance and Internal Review

The examiners reviewed UHCW's response to OCI's grievance interrogatory, its written grievance procedures and policies, provider agreements, grievance reports and summaries, and grievance committee meeting minutes. In addition, the examiners reviewed UHCW's independent review organization (IRO) process. UHCW reported that the National Appeals Service Center (NASC), a part of the Uniprise system, was responsible for reviewing and responding to grievances, and reporting grievances data to OCI. NASC is also responsible for UHCW's IRO process.

Grievances

The examiners found that UHCW used the process developed for UHG companies in responding to UHCW grievances. UHCW's routing of consumer appeals standard operating procedure defined a complaint as, "Any written or oral communication by a consumer or authorized representative, broker, employer, or network physician or other provider, of dissatisfaction relating to the products, benefits, coverage, services, operations or policies of a UnitedHealth Group entity." Plan errors or service failures were also considered as complaints. This procedure was written to conform to U.S. Department of Labor guidelines. The definition of complaint did not conform with the definition of a complaint in s. Ins 18.02 (2), Wis. Adm. Code. The definition of a complaint also included "written communications" that should be considered grievances per the definition of a grievance in s. Ins 18.01 (4), Wis. Adm. Code.

7. **Recommendation:** It is recommended that the company revise the definition of complaint in its written procedures to comply with the definition of s. Ins 18.01 (2), Wis. Adm. Code, and to handle as grievances all written communications that meet the definition of a grievance in s. Ins 18. 01 (4), Wis. Adm. Code.

The examiners found that UHCW's definition of grievance was too limited to meet the requirements under Wisconsin insurance law. UHCW's operating definition for appeal (grievance) was, "A written request by a member or authorized representative for the review and/or reconsideration of: 1) an adverse plan determination of all or part of a pre-service

request for provision of health care services or benefits, or 2) denial of payment of a claim for a service that has already been provided." This definition was included in the appeal (grievance) procedures in a document entitled "Members and Participating Providers Inquiry, Complaint and Appeal Definitions" (U:NASC Training\Definition member and provider 9-1--02.doc). The definition was too narrow to comply with the definition of grievance in s. Ins 18.01 (4), Wis. Adm. Code, which provided that a grievance was, "any dissatisfaction with the provision of services or claims practices of an insurer offering a health benefit plan or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured."

8. **Recommendation:** It is recommended that the company revise its definition of an appeal (grievance) to comply with the requirements of s. Ins 18.01 (4), Wis. Adm. Code.

The examiners found that the manner in which UHCW handled its quality of care grievances did not meet the requirements of Wisconsin insurance law. UHCW's grievance procedure entitled, "Routing of Consumer Appeals Standard Operating Procedures", indicated that written expressions of dissatisfaction involving quality of care issues were not categorized as grievances. The company reported that it believed that this type of written expression of dissatisfaction more closely met the definition of a complaint under s. Ins 18.01 (2), Wis. Adm. Code, and these items were, therefore, handled as complaints.

9. **Recommendation:** It is recommended that the company revise its procedures to handle as grievances written expressions of dissatisfaction involving quality of care issues as required by s. Ins 18.01 (4), Wis. Adm. Code, and s. Ins 18.03, Wis. Adm. Code.

The examiners found that UHCW had a two tier grievance process that did not meet the requirements of Wisconsin insurance law. The company's two tier grievance process included 1st Level Appeals and 2nd Level Appeals whereby grievances were identified as either "clinical" or "administrative." Clinical appeals were defined as, "any appeal that requires review against medical policy guidelines." These appeals were reviewed by medical personnel. Administrative appeals were defined as, "any appeal that does not require medical review." The

receipt of an initial grievance (appeal) was handled as a 1st Level Appeal, and was categorized as either clinical or administrative and assessed accordingly. If there was not a favorable disposition of the grievance at the 1st Level Appeal, the grievant was notified in writing of the right to request a 2nd Level formal hearing review and the method by which to request the review. If a member requested a hearing, the grievance was scheduled for hearing by the Grievance Committee.

10. Recommendation: It is recommended that the company revise its appeal/grievance procedures to schedule all unfavorable 1st Level Appeal grievances for hearing by the grievance committee rather than requiring the grievant to request a 2nd Level formal hearing as required by s. Ins 18.03, Wis. Adm. Code.

The examiners found that UHCW's grievance disposition letters (WI 1st Level Admin Denial and WI 1st Level Clinical Denial) that were sent to a grievant following an unfavorable disposition of 1st Level Appeals were not in compliance with the grievance procedure requirements of s. Ins 18.03, Wis. Adm. Code, because the letters required the grievant to request a 2nd Level Appeal in order for the matter to be heard by the grievance committee. The letters stated in part, "If you are not satisfied with this decision, you or an authorized representative may request an enrollee hearing. Please contact me directly at the number below or write to us at the following address.'

11. **Recommendation:** It is recommended that the company revise its WI 1st Level Admin Denial Letter and WI 1st Level Clinical Denial disposition letter to not require that the grievant request a hearing in order for the grievance to proceed to the 2nd Level Appeal and be heard by the grievance committee as required by s. Ins 18.03, Wis. Adm. Code.

The examiners reviewed a random sample of 50 grievance files. The examiners found that one grievance file did not have an acknowledgement letter as required by s Ins 18.03 (4), Wis. Adm. Code. The examiners found that two grievances were not resolved within 30 days as required by s. Ins 18. 03 (6) (b), Wis. Adm. Code, and an extension letter was not sent to the members as required by s. Ins 18.03 (6), Wis. Adm. Code.

12. **Recommendation:** It is recommended that the company improve its existing procedures and provide staff training to better ensure the prompt handling of grievances in compliance with the time frames required by s. Ins 18.03 (6), Wis. Adm. Code.

The examiners found that three of UHCW's grievance files lacked documentation adequate to verify that the grievances were properly handled within the 30 day time frame required by s. Ins 18.03 (6), Wis. Adm. Code. The company provided additional information and documentation to verify that the three grievances were properly handled within the required 30 day time frame, but documentation of this was not included in the grievance files upon initial review by the examiners. Specifically, one file did not contain notification to the member of a hearing date or any indication that a hearing was held. Additionally, this file did not contain a grievance hearing disposition letter. Two files did not contain acknowledgement letters, hearing date notifications, indication that a hearing was held, or grievance hearing disposition letters to the members.

13. **Recommendation:** It is recommended that the company improve its existing procedures to ensure that all documentation related to a grievance is maintained in the grievance file for a period of 3 years as required by s. Ins 18.06 (1), Wis. Adm. Code.

UWHC reported that following the implementation of the U. S. Department of Labor (DOL) regulations on July 1, 2002, governing ERISA procedures, the company expanded the appeal (grievance) procedures to include requests for reconsideration of benefit or claim determinations made by non-participating providers. The company reported that it believed the federal regulations consider these requests, enrollee appeals (grievances) and require that group health plans process them as such. Prior to July 1, 2002, these requests were handled as provider appeals and not included in the annual grievance experience report submitted to OCI as required by s. Ins 18.06 (2), Wis. Adm. Code.

14. **Recommendation:** It is recommended that the company submit an amended grievance experience report to OCI for 2002 deleting those grievances that were included to comply with federal regulations and that the company revise its grievance reporting procedures so that in future reports grievances will be limited to those items that meet the definition of a grievance in s. Ins 18.01 (4), Wis. Adm. Code, and reported to OCI as required by s 18.06, Wis. Adm. Code.

The examiners reviewed 97 provider agreements and found that the language under section 3.3 of the agreements did not adequately explain provider responsibility for identifying and providing the company with copies of grievances. In August 2002, the company developed an amendment for its physician participating agreements, medical group agreements, and hospital participation agreements entitled "Wisconsin Regulatory Requirement Appendix" (form UHC/PA-08.02WI), which states in 4. Grievances, "You must identify complaints and grievances in a timely manner and forward these complaints and grievances to us in a timely manner." Although this language satisfies the requirements of s. Ins 18.03 (2) (c) a, Wis. Adm. Code, the examiners found that the 97 provider agreements reviewed did not include this amendment. Section Ins 18.03 (2) (c) a, Wis. Adm. Code, requires that an insurer that offers a health benefit plan that is a managed care plan must include in each contract between it and its providers, provider networks, and within each agreement governing the administration of provider services, a provision that requires the contracting entity to promptly respond to complaints and grievances filed with the insurer to facilitate resolution.

15. **Recommendation:** It is recommended that the company amend its provider agreements to include a provision that requires the contracting entity to promptly respond to complaints and grievances filed with the company to facilitate resolution as required by s. Ins 18.03 (2) (c) a., Wis. Adm. Code.

Independent Review Process

The Independent Review Organization (IRO) process required under Wisconsin law became operational on June 15, 2002. It gave individuals who had received an adverse determination or an experimental treatment determination on or after December 1, 2000, and prior to June 15, 2002, a retroactive right to request an independent review.

The examiners reviewed UHCW's informational material provided to its members regarding the IRO process, including the amendment to its group policy, and notices in its denial letters, expedited review procedures and its grievance resolution letter. The examiners also reviewed UHCW's procedures for providing all documentation to an IRO when the company receives a review request. UHCW reported that NASC was responsible for requests for IRO review received from Wisconsin certificateholders, their representatives or providers.

The examiners found that although UHCW did provide notice of the right to request an independent review, the company did not provide to examiners the criteria it used to determine which grievances involved adverse determinations or experimental treatment. Section Ins 18.11 (2) (a), Wis. Adm. Code, required insurers to provide a notice of the right to request an independent review to all members who had received an adverse determination or an experimental treatment determination during this time period and who had completed the company's internal grievance process.

16. **Recommendation:** It is recommended that the company submit to OCI documentation that all members who had received an adverse determination or an experimental treatment determination on or after December 1, 2000, and prior to June 15, 2002, and who had completed the HMO's internal grievance process were provided with a notice that they had the right to request an independent review, as required by s. Ins 18.11 (2) (a), Wis. Adm. Code.

The examiners found that UHCW's external review amendment did not explain how to obtain a current listing of IROs. The examiners also found that UHCW's policy amendment and denial letters referred members to the phone number of the company's customer service department and that IRO information being provided to members by the customer service staff was incomplete. Section 632.835 (2) (bg) 1, Wis. Stat., requires the policy to contain a description of the independent review procedure, including an explanation of the member's rights, how to request the review, the time within which the review must be requested, and how to obtain a current listing of IROs.

- 17. **Recommendation:** It is recommended that the company modify the external review provisions in its policy to include an explanation of how to obtain a current listing of IROs, as required by s. 632.835 (2) (bg) 1, Wis. Adm. Code.
- 18. **Recommendation:** It is recommended that the company develop and implement procedures to ensure that its customer service staff provides its members with complete information on the independent review process, as required by s. 632.835 (2) (bg) 1, Wis. Stat.

The examiners found that the notice provided to members in UHCW's grievance resolution letter stated that the request for an independent review should include written authorization to release medical records. Section Ins 18.11 (3) (b), Wis. Adm. Code, requires the company to provide the information required in s. 632.835 (3) (b), Wis. Stats., to the IRO without requiring a written release from the member. UHCW reported that it had updated its letter to delete the request for a written release. However, it did not provide documentation to indicate the date of this change.

19. **Recommendation:** It is recommended that the company develop and implement a procedure that ensures that it accepts independent review requests without requiring a written release from the member in compliance with s. Ins 18.11 (3) (b), Wis. Adm. Code.

The examiners found that UHCW's IRO procedure stated that an external review was a clinical case review performed by an independent review organization (IRO). UHCW reported that it considered a request to be a clinical case if it required an appropriate licensed medical professional to review the request against medical policy guidelines for coverage. Section 632.835 (2) (a), Wis. Stat., requires the company to establish an independent review procedure whereby the member may request and obtain an independent review of an adverse determination or an experimental treatment determination. An adverse determination is defined in s. Ins 18.10 (1), Wis. Adm. Code. An experimental treatment determination is defined in s. Ins 18.10 (2), Wis. Adm. Code. The examiners also found that the HMO's procedures did not include a process that allows a member to request and obtain an independent review whenever the member receives an adverse determination or an experimental treatment determination as defined in s. Ins 18.10, Wis. Adm. Code.

20. **Recommendation:** It is recommended that the company develop and implement a procedure whereby a member may request and obtain an independent review of an adverse determination, as defined by s. Ins 18.10 (1), Wis. Adm. Code, or an experimental treatment determination, as defined by s. 18.10 (2), Wis. Adm. Code.

The examiners found that UHCW did not provide to individuals the criteria it used to determine which grievances involved adverse determinations or experimental treatment determinations. The examiners also found that the UHCW's external review procedures did not include a process for providing the IRO with information in the required time periods when the IRO determined that the review should be expedited. Section 632.835 (3) (g), Wis. Stat., requires an insurer to submit its documentation to the IRO within one day of receiving the request if the IRO determines that the review should be expedited. It also requires the insurer to submit any additional information requested by the IRO within two days of the request.

21. **Recommendation:** It is recommended that the company develop and implement a procedure for handling expedited independent review requests that complies with s. 632.835 (3) (g), Wis. Stat.

The examiners found that the company did not have a procedure to respond to an IRO's request for additional information within five business days. Section 632.835 (3) (c), Wis. Stat., requires the company to submit the requested information or an explanation within five business days of receiving the request.

22. **Recommendation:** It is recommended that the company develop and implement a procedure to submit the additional information requested by an IRO or an explanation within 5 business days after receiving a request, as required by s. 632.835 (3) (c), Wis. Stat.

Small Employer Health Insurance

The examiners reviewed UHCW's response to OCI's small employer interrogatory, its written policies and procedures for small employer group business, rating practices, underwriting standards, applications, waiver forms, and standardized letters. UHCW reported that medical underwriting for new small employer business was performed by the Medical Underwriting Department of UHC in Duluth, Minnesota; rating and renewal for small employer groups was performed by the Small Business Group unit of UHC in Duluth, Minnesota and billing for small employer groups was done by Uniprise Group Services in Duluth, Minnesota.

The examiners found that the letters used by the company to terminate a small employer group for failure to meet the minimum participation requirements of the policy did not offer to continue the small employers coverage for 60 days after the nonrenewal or termination date in order to allow the small employer to increase the number of eligible employees to the required number. The company's responses to the examiner's inquiries were not adequate to verify that the company is complying with the notification and extension of coverage requirements of s. Ins 8.54(4), Wis. Adm. Code. Section Ins 8.54 (4) (a) 2., Wis. Adm. Code, provides that a small employer insurer that intends to nonrenew a policy or terminate a policy under s. 635.07 (1) (d), Wis. Stats., because the number of eligible employees is less than the number required to keep the policy in force shall offer to continue the small employer's coverage for not less than 60 days after the nonrenewal or termination date in order to allow the small employer to increase the number of eligible employees to the required number.

23. **Recommendation:** It is recommended that the company revise the termination letters used in cases where a small employer group has fallen below the minimum participation requirements of the policy and specifically offer to continue the coverage for 60 days after the nonrenewal or termination date to allow the small employer to increase the number of eligible employees to the required number as required by s. Ins 8.54 (4) (a) 2., Wis. Adm. Code.

The examiners reviewed a random sample of 50 small employer quotes. The examiners found that although UHCW maintained records of quote requests by agents and small employers, it did not capture the receipt date of the quote request. UHCW reported that it has a 24 hour turn around time "standard" for issuing quotes.

24. **Recommendation:** It is recommended that the company revise its procedures to record the date it receives a request for a small employer health plan price quote.

The examiners reviewed a random sample of 50 small employer files for business issued during the period of review. Section Ins 8.44 (2), Wis. Adm. Code, requires that insures issue a separate notice when the policy is issued to the small employer advising the policyholder that the protections afforded by ch. 635, Wis. Stat., will cease to apply and the policy will terminate if the employer moves his business outside the state or if the employer no longer meets the definition of a small employer. None of the 50 files contained evidence that such a notice was sent. The company maintained that a separate notice is not necessary, because information to satisfy the disclosure requirement of s. Ins 8.44 (2), Wis. Adm. Code, is in the policy.

25. **Recommendation:** It is again recommended that the company establish procedures to ensure that a separate written notice is provided to the policyholder, upon issuance of the policy, which discloses to the policyholder, that the protections afforded by ch. 635, Wis. Stat., will cease to apply and the policy terminated if the employer moves his business outside the state or if the employer no longer meets the definition of small employer, as required by s. Ins 8.44 (2), Wis. Adm. Code.

The examiners found that UHCW's written procedures did not comply with the requirements of s. 632.895 (5), Wis. Stat., as regards the addition of newborn dependents. The HMO's procedure entitled "Adding Newborns" (Form COSMOS Adding Newborns_tt 9/28/00) stated the procedures used to add newborns when notification is received from claims or medical services, or when the subscriber submits an enrollment form. The procedure required that notification to add a newborn dependent must be made to the company within 60 days of the date of birth and that coverage will be effective the date of birth. Although there are specific

procedures to comply with regulations in states other than Wisconsin, no reference is made to s. 632.895 (5), Wis. Stat., which allows for the addition of newborns without medical underwriting up to one year following the date of birth.

26. **Recommendation:** It is recommended that the company revise its procedure, Adding Newborns (COSMOS Adding Newborns_tt 9/28/00) to specify and comply with the requirements of s. 632.895 (5), Wis. Stat.

Privacy and Confidentiality

Section 610.70, Wis. Stat., regarding medical records privacy, became effective June 1, 1999, and created restrictions on insurers regarding their collection and release of personal medical information that correspond with the federal Health Insurance Portability and Accountability Act (HIPAA) requirements. Chapter Ins 25, Wis. Adm. Code, became effective July 1, 2001, to address the provisions of Gramm Leach Bliley, and is based on the National Association of Insurance Commissioners (NAIC) privacy of consumer financial and health information model regulation.

The examiners reviewed UHCW's response to the privacy of consumer financial and information interrogatory, United Health Group's (UHG) privacy manual draft, UHG's employee consumer privacy training manual, UHG business associate agreement, UHG HIPAA privacy assessment tool, UHG privacy notice, and enrollment and disclosure information. UHCW reported that its parent company, UHG, had established the United Privacy Office to address privacy and HIPAA issues. UHG had a chief privacy officer, who reported to UHG general council, who in turn reported to the UHG board of directors.

The examiners found that UHG had developed a privacy program that applied to the functional areas of the company. The examiners review of privacy was limited to UHG's response to the OCI privacy interrogatory and accompanying documents. The examiners found that UHG had developed a privacy compliance checklist to assist managers to implement controls to meet regulatory compliance. The company reported that it had not been subject to internal or external audits of its privacy program.

The examiners found that UHG had an employee consumer privacy training program. Employees sign course acknowledgement forms. The company did not have formal training for agents, however, the company did produce periodic bulletins for its agents.

UHCW reported that it provided a copy of the UHG privacy notice at enrollment. The company reported that it also mailed the notices to members annually and made available on its website a copy of the notice.

The examiners found that UHCW's enrollment application/change/cancellation request forms (form numbers 590-1152 12/01 and 590-1416 12/01) failed to include in the statement of affirmation and authorization to obtain and disclose information in connection with eligibility for medical coverage section a line for dating the form. Section 610.70 (2) (a) 2, Wis. Stat., regarding disclosure of personal medical information, requires that any form that is used in the connection with an insurance transaction and that authorizes the disclosure of personal medical information about an individual to an insurer shall comply with the requirement that the form is dated. Section 610.70 (2) (b) 2, Wis. Stat., provides that for an authorization under this subsection that will be used for the purpose of obtaining information in connection with a claim for benefits under an insurance policy, the length of time specified par. (a) 7., may not exceed the policy term or the pendency of a claim for benefits under the policy, whichever is longer. The company reported that it is revising all of its applications and is in the process of exhausting the stock of old forms.

27. **Recommendation**: It is recommended that the company include as a revision to its applications the ability to date the form and limits the length of time the authorization is valid to the policy term or the pendency of a claim for benefits in order to comply with s. 610.70 (2) (a) 2 and (b) 2, Wis. Stat.

The examiners found that UHCW did not have in place a process for providing to individuals access to their recorded personal medical information. Section 610.70 (3), Wis. Stat., provides that if, after proper identification, an individual or an authorized representative of an individual submits a written request to an insurer for access to recorded personal medical information that concerns the individual and that is in the insurer's possession, within 30 business days after receiving the request the insurer shall do all of the following:

1. Inform the individual or authorized representative of the nature and substance of the recorded personal medical information in writing or by other means.

- 2. At the option of the individual or authorized representative, permit the individual or authorized representative to inspect and copy the recorded personal medical information, in person and during the insurer's normal business hours, or provide by mail a copy of the information.
- 3. Disclosure to the individual or authorized representative the identifies, if recorded, of any persons to whom the insurer has disclosed the recorded personal medical information within 2 years prior to the request.
- 4. Provide to the individual or authorized representative a summary of the procedures by which the individual or authorized representative may request the correction, amendment or deletion of any recorded personal medical information in the possession of the insurer.
- 28. **Recommendation:** It is recommended that the company develop and implement a process for providing to individuals access to recorded personal medical information in order to document compliance with s. 610.70 (3), Wis. Stat.

Managed Care

Effective March 1, 2000, the market conduct requirements previously contained in s. Ins. 3.50, Wis. Adm. Code, were incorporated into subchapter III of ch. 9, Wis. Adm. Code. Effective December 1, 2001, s. Ins. 9.33, Wis. Adm. Code, was repealed and recreated as subchapter II of ch. 18, Wis. Adm. Code, titled grievance procedures. The managed care section of this report references cites in the administrative code as currently drafted.

The August 1999 desk audit report of UHCW's managed care activities documented the company's efforts toward compliance with 1997 Wisconsin Act 327, which became effective January 1, 1999. The desk audit involved a review of the company's practices and procedures as they related to provider choice, access standards, continuity of care, and quality assurance. The 1999 desk audit of the company's managed care activities included two recommendations. The examiners found that the company failed to comply with one of the recommendations made in the prior managed care desk audit report.

The examiners reviewed UHCW's response to the managed care interrogatory, its policies and procedures regarding plan administration, quality assurance and improvement, credentialing and recredentialing, enrollee access, continuity of care, compliance program, and patient protection, and provider agreements. UHCW reported that no single entity was responsible for its managed care activities. Rather, the responsibility was shared by various departments and committees within the UHG. UHCW received an excellent accreditation outcome as a result of its review by the National Association of Quality Assurance (NCQA), with an expiration date of February 14, 2005. The examiners documented that UHCW had filed with OCI its certification of managed care plan type as required by s. Ins 9.40 (8), Wis. Stat.

The examiners' review of UHCW quality assurance process included a review of its quality improvement program description, quality assurance plan, quality assurance program evaluations for 2000 and 2001, and minutes of its quality improvement committee. The company's 2002 quality improvement program description August update indicated that the QI

program was being restructured to fit with the corporate QI program. The examiners found that UHCW's responsibilities for assuring and improving customer service had been delegated to UHG's regional customer satisfaction committee, which included in addition to Wisconsin, Missouri, Illinois, and Midlands markets. UHCW's 2002 qualify improvement evaluation indicated that its QI committee activities had been modified, expanded and restructured. The examiners found that UHCW had filed annually with OCI a copy of its quality assurance plan as required by s. Ins 9.40 (2), Wis. Adm. Code.

The examiners found that UHCW did not include a summary of its quality assurance plan in its marketing materials or in its certificate of coverage or enrollment materials. Section Ins 9.40 (7), Wis. Adm. Code, requires that all managed care plans, including HMOs, shall (a) include a summary of its quality assurance plan in its marketing materials. (b) Include a brief summary of its quality assurance plan in its certificate of coverage or enrollment materials.

29. **Recommendation:** It is recommended that the company draft summaries of its quality assurance plan for inclusion in its marketing materials and certificate of coverage or enrollment materials and submit the summaries to OCI with 60 days of the adoption of the examination report in order to comply with s. Ins 9.40 (7) (a) and (b), Wis. Adm. Code.

The examiners' review of UHCW's credentialing and recredentialing activities was limited to a review of UHG credentialing and recredentialing plan for 2002-2003, the company's 2001 credentialing and recredentialing plan, UHG's universal application for providers, provider agreements, and minutes from meetings of the credentialing committee. The examiners found that UHG's credentialing and recredentialing plan for 2002-2003 did not address reports of disciplinary action. Section 609.17, Wis. Stat., provides that every defined network plan shall notify the medical examining board or appropriate affiliated credentialing board attached to the medical examining board of any disciplinary action taken against a participating provider who holds a license or certificate granted by the board or affiliated credentialing board.

The examiners found that UHCW contractually delegated responsibility for the credentialing activities of hospitals and group practice providers. The examiners did not review

credentialing procedures for providers that were contractually delegated to other entities.

UHCW's 2002 quality improvement evaluation indicated that 317 physicians were credentialed and 1250 were recredentialed. The 2002 QI evaluation also indicated that 2688 of the company's independent physicians and network practitioners were delegated. The examiners did not conduct a review credentialing of files for providers.

The examiners' review of UHCW's activities regarding enrollee access included a review of its availability policy and procedure, access policy and procedure, access program evaluation, provider network summary, and Geo Access reports. UHCW did not require a referral from a primary physician for members to obtain care from other participating providers. The company used Geo Access software to analyze network and member access. The examiners documented that UHCW had filed with OCI its annual certification of access standards as required by s. 609.22, Wis. Stat., and s. Ins 9.34, Wis. Adm. Code.

The examiners' review of UHCW's activities regarding continuity of care included a review of its continuity of care policy and procedure, and provider agreements. The examiners also reviewed a sample of 97 provider agreements. UHCW developed a Wisconsin Regulatory Requirement Appendix to amend its physician provider agreements, medical group agreements and hospital participation agreements in order to satisfy the continuity of care requirements under Wisconsin insurance law. The company also had a written internal procedures regarding the requirement. However, the examiners found that the sample of provider agreements reviewed did not include the amendment language. Section 609.24, Wis. Stat., requires that a managed care plan provide coverage to an enrollee for the services of a provider, regardless of whether the provider is a participating provider at the time the services are provided, if the managed care plan represented that the provider was, or would be, a participating provider in marketing materials that were provided or available to the enrollee. Section 609.24 (1) (e), Wis. Stat., further requires that the insurer include in its provider contracts provisions addressing reimbursement to providers for services rendered in continuity of care situations.

30. **Recommendation:** It is again recommended that the company amend its provider agreements to include a provision addressing reimbursement for services provided in continuity of care situations, as required by s. 609.24 (1) (e), Wis. Stat.

The examiners found that UHCW's Wisconsin Regulatory Requirement Appendix did not contain a provision regarding provider specialists' responsibility for posting notice regarding termination of the provider agreement. The examiners also found that sample of provider agreements reviewed did not contain a provision to satisfy this requirement. Section Ins 9.35 (1) (a) 3, Wis. Adm. Code, requires that if a terminated provider is a specialist and the managed care plan does not require a referral, the provider's contract with the plan shall comply with the requirements of s. 609.24, Wis. Stat., and requires the provider to post a notification of termination with the plan in the provider's office the greater of 30 days prior to the termination or 15 days following the insurer's receipt of the provider's termination notice.

31. **Recommendation**: It is recommended that the company amend its provider contracts to include a provision regarding the responsibility of the provider specialist to post in-office notice of termination, as required by s. Ins 9.35 (1) (a) 3, Wis. Adm. Code and s. 609.24, Wis. Stat.

The examiners' review of UHCW's activities regarding its compliance program included a review of its response to the managed care interrogatory, including UHG's principles of integrity and compliance guide, and integrity and compliance program. UHCW has an agreement with UHS whereby UHS is responsible for negotiating employer, provider, subscriber, and other contracts; advising the board; maintaining accounting and financial records; recruiting marketing, utilization review, and claims processing personnel; and providing or contracting for claims processing and management information services. UHCW responded to the OCI interrogatory question requesting information regarding the company's compliance program, by providing a copy of UHG's principles of integrity and compliance. The examiners found that this document dealt primarily with the acts of employees, committees and officers, and outlined basic principles for them to follow on the job. UHCW also referenced some activities performed by UHS under the administrative service agreement. UHCW did not

provide documentation that it exercised oversight or review of the activities provided by UHS on its behalf. Therefore, the examiners found that UHCW did not document that the company had in place a compliance program and procedures to verify compliance with the requirements of s. Ins 9, Wis. Adm. Code. Section Ins 9.42 (2), Wis. Adm. Code, provides that all insurers shall establish and operate a compliance program that provides reasonable assurance that the insurer is in compliance with s. 609.22, 609.24, 609.30, 609.32, 609.34, 609.36, and 632.83, Wis. Stats., this subchapter and other applicable sections including, but not limited to s. Ins 9.07; Wis. Stat., that violations are detected and timely corrections are taken. Section Ins 9.42 (3), Wis. Adm. Code, provides that an insurer's compliance program shall include regular internal audits, including regular audits of any contractors or sub-contractors who perform functions relating to compliance with s. 609.22, 609.24, 609.30, 609.32, 609.34, 609.36, and 632.83, Wis. Stat., this subchapter and other applicable sections including but not limited to s. Ins 9.07, Wis. Stat.

32. **Recommendation:** It is recommended that the company improve its compliance program, including documenting its oversight of its contractors, providers and vendors, in order to meet the requirements of s. Ins 9.42, Wis. Adm. Code.

Electronic-Commerce

The examiners reviewed UHCW's response to OCI's electronic commerce interrogatory and UHG's corporate websites. UHCW reported that website development and maintenance is controlled at the corporate level for all UHG companies and affiliates. A team of business and system owners are responsible for site development and maintenance. UHCW did not maintain a website independent of the parent company and affiliates. URL's registered to the parent company include uhc.com, myuhc.com, employerservices.com, unitedhealthcareonline.com, and uhcexpress.com.

UHCW's reported that its agents were allowed to link private business websites to UHG's corporate website. UHCW agent agreements did not specifically reference website communications, but did contain provisions related to the accuracy of any marketing materials used by the agent that are not approved by the company and compliance with applicable laws. The examiners found that UHCW did not have a process for monitoring agent websites in order to determine if agents were advertising company products. Section Ins 3.27, Wis. Adm. Code, establishes minimum standards of and guidelines for conduct in the advertising and sale of insurance that prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies of insurance.

33. **Recommendation:** It is recommended that the company develop and implement a process for identifying company advertisements on the Internet, and for monitoring agent websites to ensure that all advertisements used by agents are approved by the company, are included in the company's advertising file, and are compliant with s. Ins 3.27, Wis. Adm. Code.

UHCW internet activity was limited to providing general plan information to agents, brokers, providers, and consumers. UHCW reported that it plans to expand current activities to include direct internet sales.

Company Operations and Management

The examiners reviewed UHCW's response to OCI's company operations and management interrogatory and its provider agreements. UHCW reported that United Health Networks, a subsidiary of UHG, was responsible for the drafting, executing, and maintenance of provider agreements.

UHCW used three primary agreements to contract with providers; direct physician agreements, IPA agreements, and medical group agreements. The examiners requested for review a sample of 100 provider agreements. The company was unable to locate and retrieve three of these provider agreements. Section 601.42, Wis. Stat., requires that information from any books, records, electronic data processing systems, computers or any other information storage system be made available to the commissioner at any reasonable time and in any reasonable manner.

34. Recommendation: It is recommended that the company improve existing procedures to ensure that current copies of active provider agreements are maintained in order to comply with s. 601.42, Wis. Stat.

The examiners found that although UHCW had developed an amendment titled Wisconsin Regulatory Requirement Appendix, for its provider agreements in order to meet the grievance and continuity of care requirements under Wisconsin insurance law, none of the 97 provider agreements reviewed included the amendment, and that the company had failed to amend its provider agreements in order to comply with s. 609.24, Wis. Stat., and s. Ins 18.03, Wis. Adm. Code.

35. Recommendation: It is recommended that the company operate a process to ensure that it makes periodic and necessary amendments to provider agreements for Wisconsin providers as required by Wisconsin insurance law.

The examiners' review of UHCW's response to OCI interrogatories, functional activities and samples has led to serious concerns regarding the lack of oversight by UHCW's management team during and following the conversion of its functions, procedures and systems

to UHG. The examiners' review of the UHCW's compliance with prior market conduct examination recommendations and review of functional areas of the company found that the conversion of UHCW functions into existing UHG processes failed to consider requirements specific to Wisconsin insureds and resulted in UHCW's abdication of control over its processes upon its absorption into UHG.

The examiners' review of UHCW's claim process indicated that UHG did not include in its claims system a process to ensure Wisconsin claims were processed in compliance with Wisconsin mandated benefits and uniform claim reporting requirements.

The examiners' review of UHCW's complaint process and OCI complaint files indicated that UHCW failed to ensure sufficient oversight of this process, which resulted in delayed and incomplete responses to OCI complaints. Further, it appears that UHCW's parent company failure to institute a process for identifying state specific complaints from policyholders and certificateholders only exacerbated the number, source and category of complaints received by OCI.

The examiners' review of UHCW's grievance process and grievance files indicated the UHCW failed to institute grievance requirements that complied with Wisconsin insurance law.

The examiners' review of UHCW's managed care activities indicated that UHCW did not have in place a compliance plan as required by s. Ins 9.42, Wis. Adm. Code.

36. Recommendation: It is recommended that the company designate a management level person familiar with Wisconsin insurance law to be responsible for oversight of Wisconsin claims, grievances and complaints, and for communicating with OCI.

V. CONCLUSION

The examiners found that the HMO was not in compliance with two recommendations made in prior examination reports in the areas of small employer health insurance and provider agreements. In addition to repeating these two recommendations, this examination report contains 34 new recommendations. Fifteen recommendations relate to the company's practices and procedures in handling grievances and administering its IRO process. Recommendations were made in all areas reviewed. The examination findings and the large number of recommendations raised serious concerns that UHG was not adequately familiar with, responsive to nor did it invest adequate resources for Wisconsin state specific requirements in its administration of UHCW's health insurance business when it converted UHCW procedures and functions into UHG's existing processes.

VI. SUMMARY OF RECOMMENDATIONS

Claims

- Page 11

 1. It is recommended that the company develop a written procedure specific to Wisconsin chiropractic claims for handling of claim and coverage issues related to limiting or terminating chiropractic services as required by s. 632.875, Wis. Stat.
- Page 11 2. It is recommended that the company modify the form letters it sends to treating chiropractors and patients regarding Wisconsin chiropractic claims to contain all of the information required by s. 632.875 (2) (a) (b) (c) (d) (e) (f) (g) and (h), Wis. Stat.
- Page 11 3. It is recommended that the company correct the identified system problem so that ANSI codes are printed on generated EOB forms for Wisconsin certificateholders as required by s. Ins 3.651 (4) (a) 5. f, Wis. Adm. Code.
- Page 12
 4. It is recommended that the company develop a written procedure and corresponding letters to ensure that requests from Wisconsin certificateholders for information related to the specific methodology used by the company in adjudicating claims are answered as required by s. Ins 3.60 (6), Wis. Adm. Code.

Policyholder Services and Complaints

- Page 13 5. It is recommended that the company revise the manner in which it maintains a record of complaints so that it can retrieve complaint information related to Wisconsin insureds for review by OCI in order to comply with s. Ins 18.06 (1), Wis. Adm. Code.
- Page 14 6. It is recommended that the company revise its complaint procedures involving the handling of OCI complaints to reflect its stated practice of contacting the complainant within 10 days of receiving the complaint per OCI referral instructions in order to comply with s. 601.42, Wis. Stat.

Grievances and Internal Review

- Page 15
 7. It is recommended that the company revise the definition of complaint in its written procedures to comply with the definition of s. Ins 18.01 (2), Wis. Adm. Code and to handle as grievances all written communications that meet the definition of a grievance in s. Ins 18.01, (4) Wis. Adm. Code.
- Page 16 8. It is recommended that the company revise its definition of an appeal (grievance) to comply with the requirements of s. Ins 18.01 (4), Wis. Adm. Code.
- Page 16 9. It is recommended that the company revise its procedures to handle as grievances written expressions of dissatisfaction involving quality of care issues as required by s. Ins 18.01 (4) and s. Ins 18.03, Wis. Adm. Code.

- Page 17 10. It is recommended that the company revise its appeal/grievance procedures to schedule all unfavorable 1st Level Appeal grievances for hearing by the grievance committee rather than requiring the grievant to request a 2nd Level formal hearing as required by s. Ins 18.03 Wis. Adm. Code.
- Page 17

 11. It is recommended that the company revise its WI 1st Level Admin Denial Letter and WI 1st Level Clinical Denial disposition letter to not require that the grievant request a hearing in order for the grievance to proceed to the 2nd Level Appeal and be heard by the grievance committee as required by s. Ins 18.03, Wis. Adm. Code.
- Page 18 12. It is recommended that the company improve its existing procedures and provide staff training to better ensure the prompt handling of grievances in compliance with the time frames required by s. Ins 18.03 (6), Wis. Adm. Code.
- Page 18 13. It is recommended that the company improve its existing procedures to ensure that all documentation related to a grievance is maintained in the grievance file for a period of 3 years as required by s. Ins 18.06 (1), Wis. Adm. Code.
- Page 19

 14. It is recommended that the company submit an amended grievance experience report to OCI for 2002 deleting those grievances that were included to comply with federal regulations and that the company revise its grievance reporting procedures so that in future reports grievances will be limited to those items that meet the definition of a grievance in s. Ins 18.01 (4), Wis. Adm. Code and reported to OCI as required by s 18.06, Wis. Adm. Code.
- Page 19
 15. It is recommended that the company amend its provider agreements to include a provision that requires the contracting entity to promptly respond to complaints and grievances filed with the company to facilitate resolution as required by s. Ins 18.03 (2) (c) a. Wis. Adm. Code.
- Page 20
 16. It is recommended that the company submit to OCI documentation that all members who had received an adverse determination or an experimental treatment determination on or after December 1, 2000 and prior to June 15, 2002, and who had completed the HMO's internal grievance process were provided with a notice that they had the right to request an independent review, as required by s. Ins 18.11 (2) (a), Wis. Adm. Code.
- Page 21 17. It is recommended that the company modify the external review provisions in its policy to include an explanation of how to obtain a current listing of IROs, as required by s. 632.835 (2) (bg) 1, Wis. Adm. Code.
- Page 21 18. It is recommended that the company develop and implement procedures to ensure that its customer service staff provides its members with complete information on the independent review process, as required by s. 632.835 (2) (bg), 1, Wis. Stat.

- Page 21 19. It is recommended that the company develop and implement a procedure that ensures that it accepts independent review requests without requiring a written release from the member in compliance with s. Ins 18.11 (3) (b), Wis. Adm. Code.
- Page 22 20. It is recommended that the company develop and implement a procedure whereby a member may request and obtain an independent review of an adverse determination, as defined by s. Ins 18.10 (1), Wis. Adm. Code, or an experimental treatment determination, as defined by s. 18.10 (2), Wis. Adm. Code.
- Page 22 21. It is recommended that the company develop and implement a procedure for handling expedited independent review requests that complies with s. 632.835 (3) (g), Wis. Stat.

Small Employer Health Insurance

- Page 22 22. It is recommended that the company develop and implement a procedure to submit the additional information requested by an IRO or an explanation within 5 business days after receiving a request, as required by s. 632.835 (3) (c), Wis. Stat.
- Page 23
 23. It is recommended that the company revise the termination letters used in cases where a small employer group has fallen below the minimum participation requirements of the policy and specifically offer to continue the coverage for 60 days after the nonrenewal or termination date to allow the small employer to increase the number of eligible employees to the required number as required by s. Ins 8.54 (4) (a) 2., Wis. Adm. Code.
- Page 24 24. It is recommended that the company revise its procedures to record the date it receives a request for a small employer health plan price quote.
- Page 24

 25. It is again recommended that the company establish procedures to ensure that a separate written notice is provided to the policyholder, upon issuance of the policy, which discloses to the policyholder, that the protections afforded by ch. 635, Wis. Stat., will cease to apply and the policy terminated if the employer moves his business outside the state or if the employer no longer meets the definition of small employer, as required by s. Ins 8.44 (2), Wis. Adm. Code.
- Page 25 26. It is recommended that the company revise its procedure, Adding Newborns (COSMOS Adding Newborns_tt 9/28/00) to specify and comply with the requirements of s. 632.895 (5), Wis. Stat.

Privacy and Confidentiality

Page 27 27. It is recommended that the company include as a revision to its applications the ability to date the form and limits the length of time the authorization is valid to the policy term or the pendency of a claim for benefits in order to comply with s. 610.70 (2) (a) 2 and (b) 2, Wis. Stat.

Page 28 28. It is recommended that the company develop and implement a process for providing to individuals access to recorded personal medical information in order to document compliance with s. 610.70 (3), Wis. Stat.

Managed Care

- Page 30 29. It is recommended that the company draft summaries of its quality assurance plan for inclusion in its marketing materials and certificate of coverage or enrollment materials and submit the summaries to OCI with 60 days of the adoption of the examination report in order to comply with s. Ins 9.40 (7) (a) and (b), Wis. Adm. Code.
- Page 32 30. It is again recommended that the company amend its provider agreements to include a provision addressing reimbursement for services provided in continuity of care situations, as required by s. 609.24 (1) (e), Wis. Stat.
- Page 32 31. It is recommended that the company amend its provider contracts to include a provision regarding the responsibility of the provider specialist to post inoffice notice of termination, as required by s. Ins 9.35 (1) (a) 3, Wis. Adm. Code and s. 609.24, Wis. Stat.
- Page 33 32. It is recommended that the company improve its compliance program, including documenting its oversight of its contractors, providers and vendors, in order to meet the requirements of s. Ins 9.42, Wis. Adm. Code.

Electronic-Commerce

Page 34 33. It is recommended that the company develop and implement a process for identifying company advertisements on the Internet, and for monitoring agent websites to ensure that all advertisements used by agents are approved by the company, are included in the company's advertising file, and are compliant with s. Ins 3.27, Wis. Adm. Code.

Company Operations and Management

- Page 35 34. It is recommended that the company improve existing procedures to ensure that current copies of active provider agreements are maintained in order to comply with s. 601.42, Wis. Stat.
- Page 35 35. It is recommended that the company operate a process to ensure that it makes periodic and necessary amendments to provider agreements for Wisconsin providers as required by Wisconsin insurance law.
- Page 36 36. It is recommended that the company designate a management level person familiar with Wisconsin insurance law to be responsible for oversight of Wisconsin claims, grievances and complaints, and for communicating with OCI.

VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

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Respectfully submitted,

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